

DOCKET FILE COPY ORIGINAL  
DOCKET FILE COPY ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )

Application for Review of Decision of )  
The Schools and Libraries Division of the )  
Universal Service Administrative Company )

CC Docket No. 02-6

Petition for Waiver of Commission Rule )  
54.720 to Allow Filing an Appeal of )  
Administrator's Decision Outside )  
the 60 Day Window )  
Funding Year: 2003 )

Funding Request Numbers: 983532, 983545, )  
983552, 983557 )

Form 471 Application Number: 362785 )

Applicant Name: Pitt County School District )

Billed Entity Number: 126888 )

**Petition for Waiver of Commission Rule 54.720 to Allow  
Filing an Appeal of Administrator's Decision After  
the Close of the Sixty Day Window**

Pitt County School District ("Pitt County"), pursuant to Section 1.6 of the Commission's Rules, hereby respectfully petitions the Commission for a waiver of the 60 day window for the filing of appeals of adverse decisions of the Schools and Libraries Division of the Universal Service Administrative Company ("USAC"). A copy of Pitt County's Appeal is attached hereto and Attachment A and Pitt County requests that the Commission deem said Appeal filed as of the date of the grant of this Petition for Waiver.

In an April 28, 2006 COMAD Letter ("USAC April 28, 2006 letter"), which is attached hereto as Attachment B, USAC requested that Pitt County return \$84,494.30 that USAC claims were disbursed in error. Pitt County believes that USAC is attempting to

U.S. G. Copies rec'd  
List A B C D E

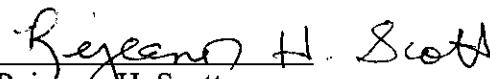
0

wrongfully apply a change in Commission policy with regard to On-Premises Equipment on a retroactive basis. Pitt County intended to appeal this wrongful adverse decision but due to ministerial and clerical errors, the sixty day appeal filing window set forth in Section 54.720 of the Commission's Rules was missed.

In granting numerous appeals and waiver requests related to USAC decisions, including decisions grounded on missed timelines, the Commission held that when the applicants' errors were procedural, not substantive; and where there was no evidence of fraud, waste, or abuse by the applicant, "denial of funding in these cases would inflict undue hardship on the applicant."<sup>1</sup> Such a hardship would likewise occur and the purposes of Section 254(h) would not be served if Pitt County's Petition for Waiver is not granted so that Pitt County can pursue its appeal of USAC's decision to take away funds that were properly disbursed.

Accordingly, for good cause shown, Pitt County petitions for an order waiving the 60 days filing window of Commission Rule 54.720 and deem Pitt County's Appeal, attached hereto as Attachment A, lawfully and timely filed.

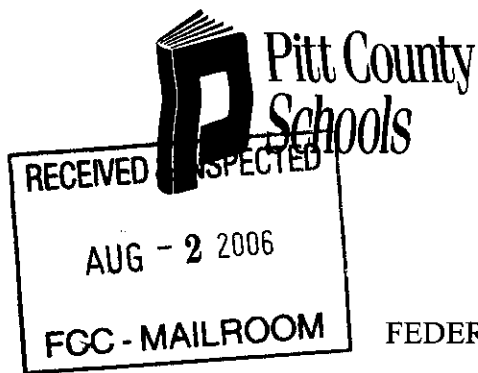
Pitt County School District

  
Rejeanor H. Scott  
1717 West 5<sup>th</sup> Street  
Greenville, NC 27834  
252-830-4210

July 26, 2006

---

<sup>1</sup> *In the Matter of Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, New Orleans, LA, et al., Schools and Libraries Universal Service Support Mechanism*, Files Nos. SLD-487170, et al., CC Docket No. 02-6, Order, FCC -6-54, released May 19, 2006.



**ATTACHMENT A**

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Application for Review of Decision of	)	CC Docket No. 02-6
The Schools and Libraries Division of the	)	
Universal Service Administrative Company	)	
	)	
Appeal of Administrator's Decision	)	
Funding Year: 2003	)	
Funding Request Numbers: 983532, 983545,	)	
983552, 983557	)	
Form 471 Application Number: 362785	)	
Applicant Name: Pitt County School District	)	
Billed Entity Number: 126888	)	

**APPEAL OF PITT COUNTY SCHOOL DISTRICT**

Pitt County School District ("Pitt County"), pursuant to Section 54.719 of the Commission's Rules, hereby respectfully appeals the above-referenced Decision served on Pitt County by the Schools and Libraries Division of the Universal Service Administrative Company ("USAC") on April 28, 2006 ("USAC April 28, 2006 letter"), which is attached hereto as Attachment B. USAC requested that Pitt County return \$84,494.30 that USAC claims were disbursed in error. Pitt County believes that USAC is attempting to wrongfully apply a change in Commission policy with regard to On-Premises Equipment on a retroactive basis.

The USAC April 28, 2006 letter stated that USAC was demanding recovery of the funds disbursed for the 2003 funding year based on USAC's determination that a

network diagram used in the 2004 funding year was insufficient documentation. USAC then determined that this same network diagram was used in 2003 and, notwithstanding that the network diagram was determined to be sufficient in 2003, retroactively rejected the 2003 network diagram and demanded a return of funds. This demand, after Pitt County spent the disbursed funds in good faith and absent any allegation or evidence of fraud, waste, or abuse, is a gross miscarriage of justice and unreasonably burdens school districts that already face numerous budget issues and problems.

The facts surrounding this dispute are fairly straight-forward:

- In Funding year 2003, Pitt County posted its E-Rate Competitive Bidding Form 470 for "leased video" for our video distribution to the classroom. The leased video was combined with network billing and equipment maintenance as a Priority 1 service. The USAC Eligible Services List for Funding Year 2003 (attached as Exhibit C) allowed for "on-premise equipment" such as the equipment depicted on Pitt County's network diagram which USAC is now, after the fact, objecting to.
- On January 31, 2003, Pitt County applied for "leased video" equipment under Priority 1 for four systems. The requested amount was based on a month-to-month payments equaling 1/5<sup>th</sup> of a 60-month agreement for equipment and maintenance.
- On August 11, 2003, USAC approved Pitt County's application as filed (including the network diagram depicting the leased video equipment).
- In October and November 2003, in reliance on USAC's approval, Pitt County accepted and installed the leased video equipment.
- On December 17, 2003 the FCC adopted the *Third Report and Order*<sup>1</sup> that prospectively held that PBX equipment and other similar equipment (such as the leased video equipment) was not qualified for Priority 1.
- On April 28, 2006 USAC sent the USAC April 28, 2006 letter to Pitt County stating that "applicant had used the same information for their Item 21 support documentation for both funding years [2003 and 2004]." USAC is entirely correct; however, the documentation was sufficient under the then existing

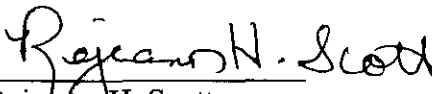
---

<sup>1</sup> *In the Matter of Schools and Libraries Universal Service Support Mechanism*, 18 FCC Rcd 26912 (2003).

rules and laws in 2003, which was why it was originally approved for 2003. The subsequent, prospective change in FCC policy does not change that and does not justify USAC's retroactive attempt to recover validly disbursed funds.

In conclusion, in reliance on USAC's approval of Pitt County's 2003 Priority 1 funding request, Pitt County spent the money disbursed by USAC. In a time of extremely tight budgets, reimbursing Priority 1 E-rate funding, that was validly approved under the rules and policies then in existence, poses an extreme hardship on Pitt County; one that is certainly not in line with the spirit or the letter, of Congress' intent in adopting the schools and library E-rate program in Section 254(h). Accordingly, the \$84,494.30 demanded by USAC in the USAC April 28, 2006 letter is without basis, and this demand should be overturned.

Pitt County School District

  
Rejean H. Scott  
1717 West 5<sup>th</sup> Street  
Greenville, NC 27834  
252-830-4210

July 26, 2006

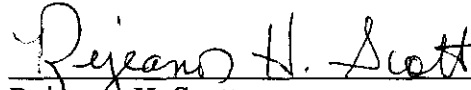
RECEIVED & INSPECTED

AUG - 2 2006

FCC - MAILROOM

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Petition for Waiver of Pitt County School District* was mailed to the FCC and copies mailed to the parties listed below by U.S. first-class mail, postage prepaid, on this 26th day of July, 2006.

  
Rejeanor H. Scott

July 26, 2006

SENT VIA U.S. first-class mail

Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Room TW-A325  
Washington, DC 20554

Thomas Navin, Esq.  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

USAC  
Box 125 - Correspondence Unit  
80 South Jefferson Rd.  
Whippany, NJ 07981

Jeremy Marcus, Esq.  
Wireline Competition Bureau  
Federal Communications Commission  
Washington, DC 20554

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, Maryland 20743

Rejeanor H. Scott  
Director of Media and Technology  
Pitt County Schools  
1717 West 5th Street  
Greenville, NC 27834



UNITED STATES  
02  
00  
MA

Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Room TW-A325  
Washington, DC 20554

RECEIVED & INSPECTED  
AUG - 2 2006  
FGC - MAILROOM